

MT LEGISLATIVE HISTORY

Chapter 506 1973

Bill H 217 S _____

Original bill & hist. C

H. Committee on Judiciary

S. Committee on Natural Resources

Hearing Date(s) Feb 02 ✓ C

Hearing Date(s) Mar 15 ✓ C

Feb 09 ✓ C

 C

Feb 14 ✓ C

 C

Feb 20 ✓ C

 C

Date Out Feb 20 ✓ C

Mar 15 ✓ C

Did this bill originate in an interim committee? Yes No

Committee

Report

HOUSE BILL 459 Chief sponsor, Representative Robert L. Marks, not present. An opponent to bill who did not give his name, nor did he fill out a statement form with his name, stated that in spite of length of bill it is relatively simple. Mr. John Northey, assistant in attorney general's office, stated this bill has been discussed with the attorney general and governor said he would not stop bill. He said he has already seen in last three months confusion in mail of various departments. Feels removing "Public Safety" from title will help keep things straight. No other proponents. No opponents. Following questions from committee the hearing was closed.

HOUSE BILLS 481, 217 and 258 Chairman Hall stated Representative Yardley had requested all three bills be considered at same time. Chairman Hall pointed out that House Bills 217 and 481 would be heard today but notice of hearing was short so deferred taking action in executive committee to see if there is additional testimony. Adequate notice given on HB 258. Chairman Hall allowed twenty minutes time for proponents and twenty minutes to the opponents.

Representative Yardley, chief sponsor, summarized his bills 217 and 481, stating both were done at the request of Health and Environmental Sciences Board. Proponent Chuck O'Donnell, attorney for Public Health Department, gave committee members a prepared statement and stated all three bills were prepared in his office some time ago. Thomas Dowling, Lewis & Clark County Attorney, also testified in support of these bills. Janet Van Swearingen, representing League of Women Voters, read a prepared statement and urged committee to support bills. Donald Holmes, chief of the water quality department, testified in support and provided prepared statement of language he would like used but not in amendment form.

HOUSE BILL 217 Representative Lund, chief sponsor, introduced and summarized his bill and then introduced Mr. Chuck O'Donnell, a proponent.

Opponents to House Bills 481, 217 and 258 were:

- 1) Bill Kirkpatrick, representing Montana Wood Products Association.
- 2) Robert N. Holding, attorney, representing St. Regis Paper Company
- 3) Largy McDonald, representing ACM

Following completion of testimony there were many questions from committee members to witnesses. Hearing closed on these bills.

HOUSE BILL 402 Representative Greely moved this bill DO NOT PASS. He stated he feels his bill is stronger legislation. Representative Towe stated he thinks this bill should be considered. Considerable discussion among committee members followed. This bill will be taken up for consideration at a later date.

The meeting adjourned at 10:26 a.m., and will be called to order again upon adjournment of the House of Representatives.

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THE MONTANA GROUPS OF THE SIEGA CLUB
WISH TO EXPRESS THEIR SUPPORT OF HOUSE BILLS 258
AND 217.

THIS LEGISLATION IS NEEDED TO BRING OUR STATE
WATER POLLUTION ENFORCEMENT LEVELS UP TO NATIONAL
STANDARDS. SURELY WE ALL REALIZE THE INCREASING
IMPORTANCE OF WATER QUALITY MATTERS. IMPURE WATER
AND NEARLY DEPLETING ~~WATER~~ RESOURCES. OUR STATE
WATERS (AND NOW WILL BECOME INCREASINGLY) DUTY AND
FREQUENTLY OF LESS AND LESS VALUE TO OURSELVES AND
OUR STATE.

WATER QUALITY IS OF ELEMENTAL IMPORTANCE TO
US ALL. WE SUPPORT PASSAGE OF HOUSE BILLS 258
AND 217.

THANK YOU

Tracy Chiswick
PATRICIA HICKMAN
(PRINCIPAL)
CHER MISSOURI GREEN
SIEGA CLUB
HELENA

ENVIRONMENTAL PROTECTION AGENCY

REGION VIII
SUITE 900, 1240 LINCOLN STREET
DENVER COLORADO 80203

January 24, 1973

Ref: AWG

Mr. Donald G. Willems
Chief, Water Quality Bureau
Division of Environmental Sciences
Department of Health and Environmental
Sciences
Cogswell Building
Helena, Montana 59601

Dear Mr. Willems:

Thank you for your letter of January 12, 1973, and the copy of the proposed bill to amend your water pollution control act.

Proposed Section 1 contains Subsections(1)(b) and (2)(b), which deal with inspections and public information. These proposed provisions are parallel to existing provisions 69-4809(2)(a) and 69-4809-22, concerning inspections and confidentiality of records. We approve of the proposed provisions, but feel that the existing parallel provisions should be repealed in order to avoid possible confusion or conflict.

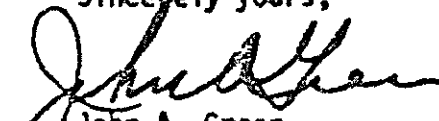
Proposed Section 2 sets forth a number of violations of certain sections contained in the Federal Water Pollution Control Act Amendments of 1972, and provides for penalties as set forth in 69-4823. This proposed section is quite unusual in that it makes it a violation of a state law to violate federal law, and further provides penalties. It is our opinion that violations and penalties should be more closely related to the state act. Further, the penalties contained in 69-4823 will not comply with the requirement that they be comparable to federal penalties -- i.e., \$2,500 to \$25,000 and one year imprisonment for willful or negligent first violations; up to \$50,000 and two years' imprisonment for subsequent violations; \$10,000 for giving false information; and a \$10,000 civil penalty.

We are pleased with Subsection(g) of proposed Section 2, which allows the department to request the court to assess costs against violators for the expenses by remedying violations. With the above exceptions, the proposed bill meets the legislative requirements mandated by the new federal act.

Page 2 - Mr. Donald G. Wilkins

If we can be of further help to you in affecting the necessary changes in your state law, please do not hesitate to call Mr. Jerry W. Ralsch, Attorney Advisor, area code 303, 837-3885.

Sincerely yours,



John A. Green
Regional Administrator

Office Memorandum •

MONTANA STATE DEPARTMENT OF HEALTH

TO : Dr. Anderson, Vern Blouin,
Harry Hanger, Chuck O'Donnell

FROM : Water Quality Bureau

SUBJECT : New Legislation

DATE: January 4, 1973

Brief Title of Legislation:

An Act to Extend and Amend Montana's Laws Regarding Water Pollution.

Intent of Legislation:

On October 18, 1972, Congress enacted comprehensive amendments to the Federal Water Pollution Control Act. The 1972 amendments establish a new national program for the elimination of pollution of the waters of the United States and add new requirements and responsibilities for state and interstate agencies and the Environmental Protection Agency in dealing with the nation's water pollution problems.

Although many of the provisions of the 1972 amendments require relatively prompt action by the states, one important and immediate concern which is emphasized is the implementation of a new national permit system. The new Federal Act clearly contemplates that states will assume the primary responsibilities for operating the permit system.

The 1972 amendments provide that the Governor of any state desiring to administer its own permit program must submit for approval by the Administrator of EPA a full and complete description of the program it proposes to establish under state law or under an interstate compact. In addition, a state requesting approval of its permit program must submit a legal opinion from the state's attorney general that the laws of the state provide adequate authority to carry out the described program. The Administrator of EPA cannot approve a state program unless several elements of legal authority specified by the Federal law are set forth in the statutes of the state.

Much of the State authority required by the 1972 amendments is contained in existing Montana statutes; however, some legislative action by the State concerning the permit program is needed. The objective and goal of the proposed State legislation is to provide authority in the Department of Health and Environmental Sciences to take whatever action is necessary to comply with the requirements for states under the 1972 amendments to the Federal Water Pollution Control Act.

In summary, the proposed legislation provides additional definitions as outlined by the Federal Act, gives the State Board of Health and Environmental Sciences specific authority to promulgate and adopt effluent standards and provides additional enforcement powers authorizing the Department to take appropriate enforcement action against violation of the new Federal water pollution control legislation.

HOUSE BILL 217 Representative Hall suggested there might be a problem with federal funding which causes a time limit on this bill. Representative Towe stated he would contact Department of Public Health Monday and find out if under deadline. Representative Greely moved bill BE HELD OVER with standing committee report to be held until Tuesday, February 13, 1973. Representative Baucus seconded. Motion carried unanimously.

HOUSE BILL 258 Representative Yardley moved DO NOT PASS. Representative Greely seconded. Motion carried unanimously.

HOUSE BILL 481 Representative Yardley moved to amend bill on line 15 after the word "penalties" by inserting new material "as set forth in 69-3921". Discussion followed. Representative Yardley withdrew his motion to amend. Representative Greely made substitute motion DO NOT PASS. Representative Baeth seconded. Motion carried with Representative Yardley abstaining.

HOUSE BILL 461 Chairman Hall stated this was Representative Baucus' bill and prepared list of amendments to bill was provided to each committee member. Considerable discussion followed regarding amendments to bill. A few minor changes were proposed by Representatives Yardley and Towe in amendments provided. Representative Baucus moved bill AS AMENDED DO PASS. Representative Towe seconded. Motion carried with Representatives Hall and Bell abstaining. (For list of amendments see Exhibit A attached).

HOUSE BILL 528 Representative Towe is chief sponsor and Representative Marbut is a co-sponsor. A list of proposed amendments was provided to each committee member. Discussion followed regarding the proposed amendments. Representative Baucus moved bill be amended and AS AMENDED DO PASS. Motion was seconded. Representative Greely made a substitute motion HB 528 DO PASS AS AMENDED except for first and second amendments as proposed and with correction on one amendment discussed. Motion seconded and carried unanimously. (See Exhibit B for list of fifteen amendments which were accepted by committee and carried).

SENATE BILL 185 Representative Baucus moved BE CONCURRED IN. Representative Warfield seconded. Motion carried unanimously.

Chairman Hall stated that the hour was very late, it had been a very long day and suggested committee adjourn. He also stated the committee would meet again on Saturday, February 10, 1973 following the hearing scheduled to continue Executive Session to consider several more bills.

Motion to adjourn and meeting adjourned at 12:15 a.m.

February 14, 1973

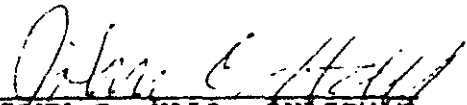
JUDICIARY COMMITTEE

The thirtieth meeting of the House Judiciary Committee was called to order in Committee Room 436 of the Capitol Building at Helena, Montana on Wednesday, February 14, 1973 at 9:00 a.m. Representative John C. Hall, Chairman, presided. All members were present except Representatives Bell, absent, excused and Representative Greely, absent.

HOUSE BILL 217 Chairman Hall opened the meeting stating the committee had before it House Bill 217 which had been previously heard and was now being considered in Executive Session. A list of amendments were provided to each committee member. The committee looked over the amendments and short discussion followed. It was the consensus that this new list of amendments was in pretty poor shape and that the meeting would adjourn for now and meet again at 1:00 p.m. today, the purpose being to give Representative Towe a chance to make the amendments more workable and the secretary a chance to type them.

The meeting adjourned at 9:10 a.m.

JCH:pb


JOHN C. HALL, CHAIRMAN

February 14, 1973

JUDICIARY COMMITTEE

The thirty first meeting of the House Judiciary Committee was called to order in Committee Room 436 of the Capitol Building at Helena, Montana on Wednesday, February 14, 1973 at 1:10 p.m. Representative John C. Hall, Chairman, presided. All members were present except Representative Greeley, absent and Representatives McKittrick and Lucas, absent, excused.

HOUSE BILL 217 A new reconstructed list of amendments was provided each committee member for their consideration.

Representative Marbut asked why the committee wasn't given information earlier on House Bill 217, and that this appeared to be a very important piece of legislation. Representative Hall stated he had no explanation and considered Representative Marbut's remarks well taken.

Representative Hall stated that he was sick to death of this bill which had been taken up for consideration several separate occasions by this committee. He stated he had considered urging passage of bill to Senate as was and then started reading the proposed amendments and realized it was too big a mess to transmit over to the Senate.

Considerable discussion followed regarding amendments to bill. Representative Marbut moved bill be amended as he set forth. Representative Bell seconded. Motion to amend carried with Representative Baucus voting no. Representative Marbut stated committee could recommend delaying action on bill until 1974 session and moved bill AS AMENDED BE HELD OVER. Representative Towe stated that if we do not pass this now Montana will refer to federal standards. Discussion followed. Representative Marbut withdrew his motion to amend and moved bill BE HELD OVER. Representative Bell seconded. Representative Hall stated he feels the committee is owed an apology. He is not convinced we need action on this policy now and is convinced bill in very poor shape at this time. The motion BE HELD OVER carried with Representatives Yardley, Roberts and Brown voting no. Representative Roberts stated he is not sure, maybe best action is to defer this bill, doesn't know why problems with bill but may be some very important reason why shouldn't hold over such as big state interests.

Committee was reopened for discussion on why bill shouldn't be held over. Representative Towe stated substantive matters are taken from federal law. Those portions drafted well were verbatim from federal law. Revisions we've done don't do all that much, key to bill is section 3, subsections (1), (a), (b) and (c). Representative Roberts voted previously not to defer but stated if we vote again will vote ~~no~~ to defer. The question was called again that bill BE HELD OVER. Motion carried with Representative Towe voting no.

The meeting adjourned at 1:30 p.m.

JCH:pb

John C. Hall
JOHN C. HALL, CHAIRMAN

February 27, 1973

JUDICIARY COMMITTEE

The forty second meeting of the House Judiciary Committee was called to order in Committee Room 436 of the Capitol Building at Helena, Montana on Tuesday, February 27, 1973 at 9:00 a.m. Representative John C. Hall, Chairman, presided. All members were present except Representatives Baucus and Towe, absent, excused and Representative Greely, absent.

Chairman Hall opened the meeting stating the committee should take up House Bill 217 before going to the justice of the peace bill.

HOUSE BILL 217 Steve Brown from the governor's office, an attorney, presented each committee member with a copy of a new substitute bill which he had prepared and stated many problems with the previous substitute bill were grammatical and that the Public Health Department had no expertise with drafting bills. State of Montana trying to enforce its own permit system in enforcing water pollution control act. Large sum of federal money involved here. It is crucial to get amended bill passed, our permit system does not now meet federal standards and will have to use federal standards if do not get our own bill. Mr. Brown went through the new substitute bill and explained the provisions. The hearing was then opened to questions from the committee members to Mr. Brown. Considerable questioning followed.

Representative Lucas moved to amend on page 8, line 17 of the new substitute bill (see exhibit) after the word "records" by inserting the new material "required under this act". Representative Yardley seconded. Motion carried unanimously. Representative Lucas moved to amend on page 10, line 14, subsection (2) by deleting the language "or negligently". Representative Bell seconded. Representative Lucas explained that to use "negligently" now is a far, far step and doesn't want to go that far now. Motion to amend carried with Representatives Roberts, McKittrick and Baeth voting no.

Representative Lucas moved to amend on page 11, lines 17 through 24 by striking section 7 in its entirety. Representative Bell seconded. The Chair corrected the amendment to include on page 10, line 24 by deleting parenthesis around (4) and also take out the hyphen. Motion failed with Representatives McKittrick and Warfield absent on this vote, Representatives Lucas, Bell and Brown voted yes.

Representative Lucas moved to amend on page 11, line 24 by deleting the material ", whether or not accidental". Representative Bell seconded. Motion carried with Representative Roberts voting no.

Page 2
(2/27/73 minutes)

Representative Bell moved DO PASS AS AMENDED. Representative Yardley seconded. Motion carried with Representative Baucus abstaining.

Chairman Hall stated that with permission will report this bill out as a substitute bill, show the title as amended as set forth on bill, that everything after the enacting clause is stricken, will include amendments in substitute bill rather than separately. No objection.

SENATE BILL 23 Representative Roberts stated he and Representative Bell got together since previous meeting and he has done a 180° switch and feels one justice of the peace per county is adequate and proposed an amendment to provide additional justice of the peace appointed by county commissioners where there is a need.

Chairman Hall directed the committee to look at prepared list of amendments made to bill in meeting of February 26, 1973, pointed out the second, third and fourth amendments are from the subcommittee report, others were made by committee yesterday (see exhibit).

Representative Roberts moved to amend by deleting amendment on page 3, line 21 (bottom paragraph in list of amendments). Representative Baucus seconded. Motion carried unanimously.

Representative Roberts moved to amend to first amendment of list for February 26, 1973 by adding the words "In counties of the first class" so that amendment will read "In counties of the first class the county commissioner shall establish such other justice courts in the county as they deem necessary.". Representative Lucas seconded. Motion carried unanimously.

Following discussion of question of election or appointment of justices of the peace Representative Roberts moved to amend by adding "such further justices of the peace shall be appointed". Representative Baucus seconded. Also add to original motion language suggested by Representative Lucas "except as herein provided" to above motion. Representative Hall asked whether they really wanted to have these appointed. Will have to change context of entire bill. Feels if going to have justices of the peace better have them elected and be thrown out at end of term. Representative Roberts withdrew his motion following additional discussion.

Representative Lucas moved to amend that additional justices of the peace be elected as set forth to be added onto first amendment on page 1 of amendment sheet for February 26, 1973. Representative Baeth seconded. Motion carried with Representative Hall voting no, Representative Marbut abstaining.

HOUSE BILL NO. 217

INTRODUCED BY Lund, Kosena

69-4802, 69-4808.2, 69-4809.1, 69-4823

A BILL FOR AN ACT ENTITLED: AN ACT TO ADD-A-NEW-SECTION
IN-TITLE-69, CHAPTER-48, R.C.M.-1947, PROVIDING-FOR-GENERAL
AND-SPECIAL-AUTHORIZATION-OF-POWERS-IN GRANT ADDITIONAL
POWERS TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
RELATING TO ACQUISITION OF INFORMATION AND ENFORCEMENT OF
REMEDIES FOR THE PURPOSE OF COMPLYING WITH THE REQUIREMENTS
FOR-STATES-UNDER 1972 AMENDMENTS TO THE FEDERAL WATER POLLU-
TION CONTROL ACT AMENDMENTS-OF-1972; AMENDING SECTIONS
69-4802, 69-4808.2, 69-4809.1 AND 69-4823, R.C.M. 1947, BY
PROVIDING-ADDITIONAL-DEFINITIONS.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE
OF MONTANA:

Section 1. Section 69-4802, R.C.M. 1947, is amended to
read as follows:

"69-4802. Definitions. As used in this chapter,
unless the context clearly indicates otherwise:

(1) "Sewage" means water-carried waste products from
residences, public buildings, institutions, or other buildi-
ings including discharge from human beings or animals
together with ground water infiltration and surface water
present.

(2) "Industrial waste" means any waste substance from
the process of business or industry, or from the development
of any natural resource together with any sewage that may
be present;

(3) "Other wastes" means garbage, municipal refuse,

1 decayed wood, sawdust, shavings, bark, lime, sand, ashes,
2 offal, night soil, oil, tar, chemicals, dead animals, sedi-
3 ment, and all other substances that may pollute state
4 waters;

5 (4) "Contamination" means impairment of the quality of
6 state waters by sewage, industrial wastes or other wastes
7 creating a hazard to human health:

8 (5) "Pollution" means such contamination, or other
9 alteration of the physical, chemical or biological proper-
10 ties, of any state waters, as exceeds that permitted by
11 Montana water quality standards, including but not limited
12 to standards relating to change in temperature, taste,
13 color, turbidity, or odor, or such discharge of any
14 liquid, gaseous, solid, radioactive, or other substance
15 into any state water as will or is likely to create a
16 nuisance or render such waters harmful, detrimental, or
17 injurious to public health, recreation, safety, or welfare,
18 or to livestock, wild animals, birds, fish or other wildlife,
19 provided, however, that any discharge which is permitted by
20 Montana water quality standards is not "pollution" for the
21 purposes of this chapter.

22 (6) "Sewerage system" means any device for collecting
23 or conducting sewage, industrial wastes or other wastes to
24 an ultimate disposal point;

25 (7) "Treatment works" means any works installed for
26 treating or holding sewage, industrial wastes or other
27 wastes;

28 (8) "Disposal system" means a system for disposing of
29 sewage, industrial, or other wastes and includes sewerage
30 systems and treatment work;

31 (9) "State waters" means any body of water, irriga-
32 tion system, or drainage system either surface or under-

1 ground; this section shall not apply to irrigation waters
2 where the waters are used up within the irrigation system
3 and said waters are not returned to any other state waters;

4 (10) "Person" means the state, any political sub-
5 division of the state, institution, firm, corporation,
6 partnership, or individual or other entity;

7 (11) "Council" means the state water pollution advisory
8 council created by this act;

9 (12) "Board" means the state board of health;

10 (13) "Department" means the state department of health;

11 (14) "Executive officer" means the chief administrative
12 officer of the state department of health;

13 (15) "Director" means the director of water pollution
14 control, a position created by this act;

15 (16) "Local department of health" means the staff,
16 including any health officers, employed by a county, city,
17 city-county, or district board of health.

18 (17) "Point Source" means any discernible, confined
19 and discrete conveyance, including but not limited to any
20 pipe, ditch, channel, tunnel, conduit, well, discrete
21 fissure, container, rolling stock, concentrated animal
22 feeding operation, or vessel or other floating craft, from
23 which pollutants are or may be discharged;

24 (18) "Owner or operator" means any person who owns,
25 leases, operates, controls or supervises a point source;

26 (19) "Standard of performance" means a standard
27 adopted by the board for the control of the discharge of
28 pollutants which reflects the greatest degree of effluent
29 reduction achievable through application of the best avail-
30 able demonstrated control technology, processes, operating
31 methods, or other alternatives, including, where practicable,
32 a standard permitting no discharge of pollutants;

1 (20) "Effluent standard" means any restriction or pro-
2 hibition on quantities, rates and concentrations of chemical,
3 physical, biological and other constituents which are dis-
4 charged into state waters."

5 Section 2. Section 69-4808.2, R.C.M. 1947, is amended
- 6 to read as follows:

7 "69-4808.2. Duties of board of health. (1) The board
8 shall:

9 (a) establish and modify the classification of all
10 waters in accordance with their present and future most
11 beneficial uses;

12 (b) formulate standards of water purity and classificaa-
13 tion of water according to its most beneficial uses, giving
14 consideration to the economics of waste treatment and pre-
15 vention;

16 (c) review from time to time, at intervals of not more
17 than three years, established classifications of waters and
18 standards of water purity and classific tion, provided that

19 (1) such classifications, standards, and rules as have
20 been adopted by the state water pollution control council
21 under section 133, chapter 197 of the Laws of 1967
22 (69-4813) shall be deemed, without necessity of a hearing,
23 to have been initially adopted by the board.

24 (2) in revising classifications or standards or in
25 adopting new classifications or standards the board may not
26 so formulate standards of water purity or classify any state
27 water as to lower any water quality standard applicable to
28 any state water below the level applicable under the
29 classifications and standards adopted by the state water
30 pollution control council under section 133, chapter 197 of
31 the Laws of 1967 (69-4813).

32 (3) the board shall require that any state waters

1 whose existing quality is better than the established stan-
2 dards as of the date on which such standards become effective
3 be maintained at that high quality unless it has been
4 affirmatively demonstrated to the board that a change is
5 justifiable as a result of necessary economic or social
6 development and will not preclude present and anticipated
7 use of such waters, and

8 (4) the board shall require any industrial, public, or
9 private project or development, which would constitute a
10 new source of pollution or an increase source of pollution
11 to high quality waters, referred to in (3) immediately above,
12 to provide the degree of waste treatment necessary to main-
13 tain that existing high water quality;

14 (d) advise, consult, and co-operate with other state and
15 federal agencies, affected groups, political subdivisions,
16 and industries in the formulation of a comprehensive
17 plan to prevent and control pollution;

18 (e) make rules governing application for permits to
19 discharge sewage, industrial wastes, or other wastes into
20 state waters including rules requiring the filing of plans
21 and specifications relating to the construction, modifica-
22 tion, or operation of disposal systems;

23 (f) make rules governing the issuance, denial, modifi-
24 cation, or revocation of permits, provided, however, that:

25 (1) the rules shall allow the issuance or continuance
26 of a permit only if the department finds that operation
27 consistent with the limitations of the permit will not
28 result in pollution of any state waters, except that

29 (2) the rules may allow the issuance of a temporary
30 permit under which pollution may result, for a period no
31 longer than three years and subject to no extension, if
32 the department finds that the issuance of such a permit

1 is proper for obtaining compliance with the applicable
2 standards, that

3 (3) the rules shall provide that the department may
4 revoke any permit if the department finds that the holder
5 of the permit has violated its terms, unless the department
6 also finds that the violation was accidental and unfore-
7 seeable and that the holder of the permit corrected the
8 condition resulting in the violation as soon as was reason-
9 ably possible; and that

10 (4) any person introducing a new source or increased
11 source of sewage, industrial waste, or other wastes as
12 defined in section 69-4802 (1), (2), and (3), R.C.M. 1947,
13 to waters and tributaries of waters classified as A-open-D-1
14 of higher by the board shall be required to install and
15 maintain the highest and best degree of treatment works
16 necessary to maintain adequately said classification,
17 as defined in section 69-4802 (7), R.C.M. 1947, prior
18 to the issuance of a permit by the department;

19 (g) hold any hearings necessary for the proper admini-
20 stration of this chapter;

21 (h) make rules for the administration of this chapter.
22 and

23 (i) bring actions in court for the enforcement of this
24 chapter, and

25 (j) promulgate and adopt pretreatment standards for
26 wastewater discharged into a municipal disposal system, and
27 establish standards of performance for new point source
28 discharges. *promulgate and adopt effluent standards defined in section 69-4802 (20),*

29 (2) The board may:

30 (a) accept loans and grants from the federal government
31 and from other sources to carry out the provisions of this
32 chapter; and

1 (b) establish minimum requirements for the treatment of
2 wastes.

3 Section 3. Section 69-4809.1, R.C.M. 1947, is amended
4 to read as follows:

5 "69-4809.1. Duties of department of health. (1) The
6 department shall:

7 (a) issue, suspend, revoke, modify, or deny permits to
8 discharge sewage, industrial wastes, or other wastes to state
9 waters, consistently with rules made by the board;

10 (b) examine and approve or disapprove plans and other
11 information needed to determine whether a permit should be
12 issued or suggest changes in plans as a condition to the
13 issuance of a permit:

14 (c) clearly specify in any permit any limitations im-
15 posed as to the volume, strength, and other significant
16 characteristics of the waste to be discharged.

17 (d) collect and furnish information relating to
18 the prevention and control of water pollution; and

19 (e) conduct or encourage necessary research and demon-
20 strations concerning water pollution.

21 (f) issue orders to any person to clean up any material
22 which he or his employee, agent, or subcontractor has
23 accidentally or purposely dumped, spilled, or otherwise
24 deposited in or near state waters and which may pollute them.

25 ~~{2}-The-department-may-~~

26 ~~{a}-through-its-authorized-representatives,-enter-upon~~
27 ~~any-private-or-public-property-at-reasonable-times-to-investi-~~
28 ~~gate-conditions-relating-to-pollution-of-state-waters;-and~~

29 ~~{b}-issue,-modify,-or-revoke-orders-for-the-abatement-of-~~
30 ~~pollution-~~

31 Section 4. There is a new section to be numbered
32 69-4809.2, R.C.M. 1947, which reads as follows:

1 "69-4809.2. Power to inspect and monitor--authority.

2 (1) In order to carry out the objectives of this act and to
3 effectively monitor the discharge of sewage, industrial
4 wastes and other wastes into state waters, the department
5 may require the owner or operator of any point source to:

6 (a) establish and maintain records:

7 (b) make reports;

8 (c) install, use and maintain monitoring equipment or
9 methods, including biological monitoring techniques;

10 (d) sample effluents using specified monitoring
11 methods at designated locations and intervals;

12 (e) provide other information as may be reasonably
13 required by the department.

14 (2) The authorized representative of the department,
15 upon presentation of his credentials, may at reasonable times
16 enter upon any public or private property and have access
17 to and copy any records, inspect any monitoring equipment
18 or method required under subsection (1)(c), and sample
19 any effluents which the owner or operator of such source
20 is required to sample under that subsection.

21 (3) Any records, reports, or information obtained under
22 this section shall, in the case of effluent data, be related
23 to any applicable effluent limitations, toxic, pretreatment,
24 or new source performance standards."

25 Section 5. There is a new section to be numbered
26 69-4820.1, R.C.M. 1947, which reads as follows:

27 "69-4820.1. Additional enforcement remedies. (1)

28 In addition to all other remedies created by this act, the
29 department is authorized to take appropriate enforcement
30 action to:

31 (a) prevent, abate, and control the pollution of state
32 waters;

1 (b) prevent, abate, and control any condition or limita-
2 tion imposed by a permit issued under section 69-4806,
3 R.C.M. 1947;

4 (c) prevent, abate, and control any violations of requ-
5 lations relating to pretreatment standards.

6 (2) Any person violating a condition, limitation, stand-
7 ard or other requirement established pursuant to this section
8 may be served with a compliance order issued by the depart-
9 ment. Such order must specify the condition, limitation,
10 standard or other requirement violated and must set a time
11 for compliance. However, in establishing a time for compli-
12 ance, the department shall take into account the seriousness
13 of the violation and any good faith efforts that have
14 been made to comply with the condition, limitation,
15 standard or other requirement that has been violated.
16 The compliance order issued under this section shall
17 be personally served by an authorized employee of the
18 department.

19 (3) The department is authorized to commence a civil
20 action seeking appropriate relief, including a permanent or
21 temporary injunction, for any violation which would be
22 subject to a compliance order under subsection (2)
23 of this section. Any action under this subsection may be
24 commenced in the district court of any county in which
25 the defendant is located or resides or is doing business, and
26 the court shall have jurisdiction to restrain such violation
27 and to require compliance.

28 (4) Any person found to be in violation of a condition,
29 limitation, standard or other requirement established pur-
30 suant to this section shall be subject to the penalty pro-
31 visions of section 69-4823, R.C.M. 1947.

32 (5) For the purpose of this subsection, the term "person"

1 shall mean, in addition to the definition contained in sec-
2 tion 69-4802, R.C.M. 1947, any responsible corporate officer.

3 Section 6. Section 69-4823, R.C.M. 1947, is amended to
4 read as follows:

5 "69-4823. Penalties for violation of a provisions, rule,
6 permit, effluent standard, or order--purpose and construction
7 of chapter. (1) Any A person who violates any provision of
8 this chapter other than section 16 of this act, or any rule,
9 permit, effluent standard, or order issued pursuant to it
10 the provisions of this act is shall be subject to a fine civil
11 penalty not to exceed one ten thousand dollars (\$1,000)
12 (\$10,000). Each day of a violation constitutes a separate
13 offense.

14 (2) Any A person who willfully or negligently violates
15 section 16 69-4806, R.C.M. 1947, or any pretreatm. t standard
16 established pursuant to this act is guilty of an offense and
17 subject to a fine not to exceed one twenty-five thousand
18 dollars (\$1,000) (\$25,000) per day of violation, or by imprison-
19 ment for not more than one year or both. Following an initial
20 conviction under this subsection, subsequent conviction : shall
21 subject a person to a fine of not more than fifty thousand
22 dollars (\$50,000) per day of violation, or imprisonment for
23 not more than two (2) years, or both.

24 (3) Action pursuant to (sub) section (1) of this
25 section does not bar enforcement of this chapter or
26 of rules or orders issued pursuant to it by injunction
27 or other appro-priate remedy. The board shall institute
28 and maintain any and all such enforcement proceedings
29 in the name of the state.

30 (4) A purpose of this chapter is to provide additional
31 and cumulative remedies to prevent, abate and control the
32 pollution of state waters. This chapter shall not be con-

1 strued to abridge or alter rights of action or remedies in
2 equity or under the common law or statutory law to suppress
3 nuisances or to abate pollution.

4 (5) All fines collected shall be deposited to the credit
5 of the department, to be used to alleviate pollution for which
6 no person subject to action by the department or board is
7 responsible.

8 (6) Any person who knowingly makes any false statement,
9 representation, or certification in any application, record,
10 report, plan or other document filed or required to be main-
11 tained under this act or who falsifies, tampers with or know-
12 ingly renders inaccurate any monitoring device or method re-
13 quired to be maintained under this act shall upon conviction
14 be punished by a fine of not more than ten thousand dollars
15 (\$10,000), or by imprisonment for not more than six (6)
16 months, or both.

17 (7) In a civil action initiated by the department under
18 this act, the department may ask for and the court is author-
19 ized to assess a violator for the cost of the investigation
20 or monitoring survey which led to the establishment of the
21 violation, and any expense incurred by the state in removing,
22 correcting or terminating any of the adverse effects upon
23 water quality resulting from the unauthorized discharge of
24 pollutants, whether or not accidental."

25 Section 7. There is a new section to be numbered
26 69-4824.1, R.C.M. 1947, which reads as follows:

27 "69-4824.1. Additional emergency powers. Notwith-
28 standing any other provisions of this act, the department
29 upon receipt of evidence that a pollution source or com-
30 bination of sources is endangering the health, welfare,
31 or livelihood of a person may bring suit in the district
32 court of any county in which the defendant is located or

1 resides or is doing business to enjoin the discharge
2 of pollutants causing or contributing to the alleged
3 pollution."

4 END

COMMITTEE ON NATURAL RESOURCES

BILL NO.	ENTERED COM.	OUT OF COM.	DO PASS	DO NOT PASS	DO PASS AS AMENDED	BE CONCURRED IN	BE CONCURRED IN AS AMENDED	BE NOT CONCURRED IN
SJR 33	1/26	2/8			x			
SJR 35	1/26	2/8	x					
SJR 37	1/27	2/10	x					
SJR 39	2/1	2/13	x					
SR 23	2/28	3/3	x					
SR 24	3/2	3/6	x					
HOUSE 40	1/15	1/20				x		
41	1/18	1/23				x		
65	1/18	1/30					x	
110	1/30	2/20						
127	2/20	2/27					x	
162	2/20	2/27					Min. Report	Maj. Report
172	2/3	2/10				X		x
217	3/14	3/15					x	
249	2/16	3/3				x		
335	2/19	3/8						x
470	2/16	3/3						x
555	2/22	3/3						x
HJR5	2/23	3/3				x		
HJR 9	2/12-2/21	2/22					x	
HJR 24	2/7	2/20						x
HJR 33	2/20	3/8						x
HJR 34	2/20	2/22					x	
HJR 35	2/20	2/22						x
HB 465	3/17	3/19						

March 15, 1973

A meeting of the Senate Committee on Natural Resources was called to order by Chairman William Bertsche in room 415 of the State Capitol at 8:12 A. M. to consider House Bill 217. Representative Lund explained the amendments added in the house would be explained by Steve Brown, a member of the governors' staff. Steve explained that the added amendments had been put into the bill in order that they meet the specifications demanded by the Federal Government.

Don Williams, Water Control Board of the State Board of Health spoke also on the requirements, and that the amendments would come closer to meeting the requirements of the Federal Government.

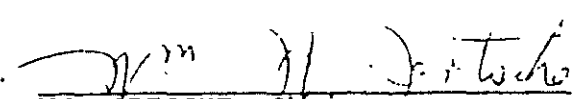
Steve Brown suggested some amendments to try to eliminate the rancher raising cattle who did not have a feed lot, but was calving, or where stock tended to gather in adverse weather conditions in a sheltered area near a creek.

A motion by Senator Darrow, seconded by Senator Cochrane to amend House Bill 217 page 10, section 1, subsection 17, line 23 by deleting the words concentrated animal feeding operation, and line 25 following the word and punctuation ";" and inserting a "." and deleting provided, and striking all of sections 1, subsection 17, line 1, 2 and 3 in its entirety, and page 21, section 6, subsection 5, line 5 and 6 by striking the underscored material and inserting in lieu thereof the words "State General Fund". Voted and passed.

Jeff Brazier noted the absence of the state penalty in some things, and asked why necessary in this one where there was already a federal penalty.

A motion by Senator Darrow that House Bill 217 be concurred in as amended. Second by Senator Moritz, voted and passed.

The meeting adjourned.


WH BERTSCHE, Chairman

state of Montana is hereby authorized to administer in the state of Montana such grants-in-aid and payments in addition to grants made by this act. The total payments to any individual under this act shall not exceed *one hundred seventy-five dollars (\$175)* per month exclusive of any grants made by Congress."

Approved: April 2, 1973.

CHAPTER NO. 505

An Act Amending Section 10-622, R.C.M. 1947, Providing an Increase in the Maximum Salary for Juvenile Probation Officers from Ten Thousand Two Hundred Dollars (\$10,200) to Eleven Thousand Dollars (\$11,000).

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 10-622, R.C.M. 1947, is amended to read as follows:

"10-622. **Probation officers — appointments — removal — salaries.** In every judicial district of the state of Montana the judge thereof having jurisdiction of juvenile matters may appoint one (1) discreet person of good moral character, who shall be known as the chief probation officer of such district and who shall hold his office until removed by the court. Preference in appointment shall be given to any person who possesses the following qualifications:

(1) a bachelor's degree from an accredited college or university in the behavioral sciences, or

(2) a bachelor's degree from an accredited college or university in some subject other than the behavioral sciences, and three (3) years of experience in work of a nature related to the duties of the probation department as set forth in section 10-623.

Such officer shall receive for his services such sum as shall be specified by the court upon appointment, provided that the judge of the district court may employ him on a yearly salary not to exceed *eleven thousand dollars (\$11,000)*, or on a per diem basis at the rate of forty dollars (\$40) per day for the time actually and necessarily employed in performing the duties of the office. The salary of such officer shall be apportioned among and paid by each of said counties in which said officer shall be appointed to act, in proportion to the assessed valuation of such counties for the year then current, except that where such official is appointed for one (1) county, his salary shall be paid by that county.

The judge having jurisdiction of juvenile matters may also appoint such additional persons giving preference to persons having the qualifications suggested for appointment as the chief probation officer to serve as deputy probation officers as the judge deems necessary; their salaries to be fixed by the judge at the time of appointment, provided that such salaries shall not exceed ninety per cent (90%) of the salary of the chief probation officer.

For all necessary travel incident to his official duties in connection with the investigation, supervision, and transportation of children, the probation officer shall, in addition to his official salary, be reimbursed for actual expenses incurred."

Approved: April 2, 1973.

CHAPTER NO. 506

An Act to Grant Additional Powers to the Department of Health and Environmental Sciences Relating to Acquisition of Information and Enforcement of Remedies for the Purpose of Complying with the 1972 Amendments to the Federal Water Pollution Control Act; and Amending Sections 69-4802, 69-4808.2, 69-4809.1 and 69-4823, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 69-4802, R.C.M. 1947, is amended to read as follows:

"69-4802. **Definitions.** As used in this chapter, unless the context clearly indicates otherwise:

(1) "Sewage" means water-carried waste products from residences, public buildings, institutions, or other buildings including discharge from human beings or animals together with ground water infiltration and surface water present.

(2) "Industrial waste" means any waste substance from the process of business or industry, or from the development of any natural resource together with any sewage that may be present;

(3) "Other wastes" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, night soil, oil, tar, chemicals, dead animals, sediment, and all other substances that may pollute state waters;

(4) "Contamination" means impairment of the quality of state waters by sewage, industrial wastes or other wastes creating a hazard to human health;

(5) "Pollution" means such contamination, or other alteration of the physical, chemical or biological properties, of any state waters, as exceeds that permitted by Montana water quality standards, including but not limited to standards relating to change in temperature, taste, color, turbidity, or odor, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any state water as will or is likely to create a nuisance or render such waters harmful, detrimental, or injurious to public health, recreation, safety, or welfare, or to livestock, wild animals, birds, fish or other wildlife, provided, however, that any discharge which is permitted by Montana water quality standards is not "pollution" for the purposes of this chapter.

(6) "Sewerage system" means any device for collecting or conducting sewage, industrial wastes or other wastes to an ultimate disposal point;

(7) "Treatment works" means any works installed for treating or holding sewage, industrial wastes or other wastes;

(8) "Disposal system" means a system for disposing of sewage, industrial, or other wastes and includes sewerage systems and treatment work;

(9) "State waters" means any body of water, irrigation system, or drainage system either surface or underground; this section shall not apply to irrigation waters where the waters are used up within the irrigation system and said waters are not returned to any other state waters;

(10) "Person" means the state, any political subdivision of the state, institution, firm, corporation, partnership, or individual or other entity;

(11) "Council" means the state water pollution advisory council created by this act;

(12) "Board" means the state board of health;

(13) "Department" means the state department of health;

(14) "Executive officer" means the chief administrative officer of the state department of health;

(15) "Director" means the director of water pollution control, a position created by this act;

(16) "Local department of health" means the staff, including any health officers, employed by a county, city, city-county, or district board of health.

(17) "Point Source" means any discernible, confined and dis-

crete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel or other floating craft, from which pollutants are or may be discharged.

(18) "Owner or operator" means any person who owns, leases, operates, controls or supervises a point source;

(19) "Standard of performance" means a standard adopted by the board for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants;

(20) "Effluent standard" means any restriction or prohibition on quantities, rates and concentrations of chemical, physical, biological and other constituents which are discharged into state waters."

Section 2. Section 69-4808.2, R.C.M. 1947, is amended to read as follows:

"69-4808.2. Duties of board of health. (1) The board shall:

(a) establish and modify the classification of all waters in accordance with their present and future most beneficial uses;

(b) formulate standards of water purity and classification of water according to its most beneficial uses, giving consideration to the economics of waste treatment and prevention;

(c) review from time to time, at intervals of not more than three years, established classifications of waters and standards of water purity and classification, provided that

(1) such classifications, standards, and rules as have been adopted by the state water pollution control council under section 133, chapter 197 of the Laws of 1967 [69-4813] shall be deemed, without necessity of a hearing, to have been initially adopted by the board.

(2) in revising classifications or standards or in adopting new classifications or standards the board may not so formulate standards of water purity or classify any state water as to lower any water quality standard applicable to any state water below the level applicable under the classifications and standards adopted by the state water pollution control council under section 133, chapter 197 of the Laws of 1967 [69-4813].

(3) the board shall require that any state waters whose existing quality is better than the established standards as of the date on which such standards become effective be maintained at that

high quality unless it has been affirmatively demonstrated to the board that a change is justifiable as a result of necessary economic or social development and will not preclude present and anticipated use of such waters, and

(4) the board shall require any industrial, public, or private project or development, which would constitute a new source of pollution or an increase source of pollution to high quality waters, referred to in (3) immediately above, to provide the degree of waste treatment necessary to maintain that existing high water quality;

(d) advise, consult, and co-operate with other states, other state and federal agencies, affected groups, political subdivisions, and industries in the formulation of a comprehensive plan to prevent and control pollution;

(e) make rules governing application for permits to discharge sewage, industrial wastes, or other wastes into state waters including rules requiring the filing of plans and specifications relating to the construction, modification, or operation of disposal systems;

(f) make rules governing the issuance, denial, modification, or revocation of permits, provided, however, that:

(1) the rules shall allow the issuance or continuance of a permit only if the department finds that operation consistent with the limitations of the permit will not result in pollution of any state waters, except that

(2) the rules may allow the issuance of a temporary permit under which pollution may result, for a period no longer than three years and subject to no extension, if the department finds that the issuance of such a permit is proper for obtaining compliance with the applicable standards, that

(3) the rules shall provide that the department may revoke any permit if the department finds that the holder of the permit has violated its terms, unless the department also finds that the violation was accidental and unforeseeable and that the holder of the permit corrected the condition resulting in the violation as soon as was reasonably possible; and that

(4) any person introducing a new source or increased source of sewage, industrial waste, or other wastes as defined in section 69-4802 (1), (2), and (3), R.C.M. 1947, to waters and tributaries of waters classified as A-open-D-1 or higher by the board shall be required to install and maintain the highest and best degree of treatment works necessary to maintain adequately said classification, as defined in section 69-4802 (7), R.C.M. 1947, prior to the issuance of a permit by the department;

(g) hold any hearings necessary for the proper administration of this chapter;

(h) make rules for the administration of this chapter; and

(i) bring actions in court for the enforcement of this chapter; and

(j) promulgate and adopt pretreatment standards for wastewater discharged into a municipal disposal system, promulgate and adopt effluent standards as defined in section 69-4802 (20), and establish standards of performance for new point source discharges.

(2) The board may:

(a) accept loans and grants from the federal government and from other sources to carry out the provisions of this chapter; and

(b) establish minimum requirements for the treatment of wastes."

Section 3. Section 69-4809.1, R.C.M. 1947, is amended to read as follows:

"69-4809.1. Duties of department of health. (1) The department shall:

(a) issue, suspend, revoke, modify, or deny permits to discharge sewage, industrial wastes, or other wastes to state waters, consistently with rules made by the board;

(b) examine and approve or disapprove plans and other information needed to determine whether a permit should be issued or suggest changes in plans as a condition to the issuance of a permit;

(c) clearly specify in any permit any limitations imposed as to the volume, strength, and other significant characteristics of the waste to be discharged.

(d) collect and furnish information relating to the prevention and control of water pollution; and

(e) conduct or encourage necessary research and demonstrations concerning water pollution.

(f) issue orders to any person to clean up any material which he or his employee, agent, or subcontractor has accidentally or purposely dumped, spilled, or otherwise deposited in or near state waters and which may pollute them."

Section 4. There is a new section to be numbered 69-4809.2, R.C.M. 1947, which reads as follows:

69-4809.2. **Power to inspect and monitor — authority.** (1) In order to carry out the objectives of this act and to effectively monitor the discharge of sewage, industrial wastes and other wastes into state waters, the department may require the owner or operator of any point source to:

- (a) establish and maintain records;
- (b) make reports;
- (c) install, use and maintain monitoring equipment or methods, including biological monitoring techniques;
- (d) sample effluents using specified monitoring methods at designated locations and intervals;
- (e) provide other information as may be reasonably required by the department.

(2) The authorized representative of the department, upon presentation of his credentials, may at reasonable times enter upon any public or private property and have access to and copy any records required under this act, inspect any monitoring equipment or method required under subsection (1) (c), and sample any effluents which the owner or operator of such source is required to sample under that subsection.

(3) Any records, reports, or information obtained under this section shall, in the case of effluent data, be related to any applicable effluent limitations, toxic, pretreatment, or new source performance standards.

Section 5. There is a new section to be numbered 69-4820.1, R.C.M. 1947, which reads as follows:

69-4820.1. **Additional enforcement remedies.** (1) In addition to all other remedies created by this act, the department is authorized to take appropriate enforcement action to:

- (a) prevent, abate, and control the pollution of state waters;
- (b) prevent, abate, and control any violation of a condition or limitation imposed by a permit issued under section 69-4806, R.C.M. 1947;
- (c) prevent, abate, and control any violations of regulations relating to pretreatment standards.

(2) Any person violating a condition, limitation, standard or other requirement established pursuant to this section may be served with a compliance order issued by the department. Such order must specify the condition, limitation, standard or other requirement violated and must set a time for compliance. However, in

establishing a time for compliance, the department shall take into account the seriousness of the violation and any good faith efforts that have been made to comply with the condition, limitation, standard or other requirement that has been violated. The compliance order issued under this section shall be personally served by an authorized employee of the department.

(3) The department is authorized to commence a civil action seeking appropriate relief, including a permanent or temporary injunction, for any violation which would be subject to a compliance order under subsection (2) of this section. Any action under this subsection may be commenced in the district court of any county in which the defendant is located or resides or is doing business, and the court shall have jurisdiction to restrain such violation and to require compliance.

(4) Any person found to be in violation of a condition, limitation, standard or other requirement established pursuant to this section shall be subject to the penalty provisions of section 69-4823, R.C.M. 1947.

(5) For the purpose of this subsection, the term "person" shall mean, in addition to the definition contained in section 69-4802, R.C.M. 1947, any responsible corporate officer.

Section 6. Section 69-4823, R.C.M. 1947, is amended to read as follows:

"69-4823. Penalties for violation of provisions, rule, permit, effluent standard, or order — purpose and construction of chapter.

(1) A person who violates any rule, permit, effluent standard, or order issued pursuant to the provisions of this act shall be guilty of an offense and subject to a civil penalty not to exceed ten thousand dollars (\$10,000). Each day of violation constitutes a separate offense.

(2) A person who willfully violates section 69-4806, R.C.M. 1947, or any pretreatment standard established pursuant to this act is guilty of an offense and subject to a fine not to exceed twenty-five thousand dollars (\$25,000) per day of violation or by imprisonment for not more than one year or both. Following an initial conviction under this subsection, subsequent convictions shall subject a person to a fine of not more than fifty thousand dollars (\$50,000) per day of violation, or imprisonment for not more than two (2) years, or both.

(3) Action pursuant to [sub] section (1) of this section does not bar enforcement of this chapter or of rules or orders issued pursuant to it by injunction or other appropriate remedy. The board shall institute and maintain any and all such enforcement proceedings in the name of the state.

(4) A purpose of this chapter is to provide additional and cumulative remedies to prevent, abate and control the pollution of state waters. This chapter shall not be construed to abridge or alter rights of action or remedies in equity or under the common law or statutory law, criminal or civil, nor shall any provision of this chapter or any act done by virtue of it be construed as estopping the state or any municipality or person as owners of water rights or otherwise in the exercise of their rights in equity or under the common law or statutory law to suppress nuisances or to abate pollution.

(5) All fines collected shall be deposited to the *state general fund*.

(6) *Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained under this act or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required to be maintained under this act shall upon conviction be punished by a fine of not more than ten thousand dollars (\$10,000), or by imprisonment for not more than six (6) months, or both.*

(7) *In a civil action initiated by the department under this act, the department may ask for and the court is authorized to assess a violator for the cost of the investigation or monitoring survey which led to the establishment of the violation, and any expense incurred by the state in removing, correcting or terminating any of the adverse effects upon water quality resulting from the unauthorized discharge of pollutants."*

Section 7. There is a new section to be numbered 69-4824.1, R.C.M. 1947, which reads as follows:

69-4824.1. Additional emergency powers. Notwithstanding any other provisions of this act, the department upon receipt of evidence that a pollution source or combination of sources is endangering the health, welfare, or livelihood of a person may bring suit in the district court of any county in which the defendant is located or resides or is doing business to enjoin the discharge of pollutants causing or contributing to the alleged pollution.

Approved: April 2, 1973.

CHAPTER NO. 507

An Act to Amend Section 75-6204, R.C.M. 1947, to Increase Pay to Members of the Teachers' Retirement Board and Remove Restrictions on Maximum Per Diem Pay; Amending Sections

75-6206 and 75-6207, R.C.M. 1947, to Change Certain Methods of Funding and Disbursing from the Various Teachers' Retirement System Funds; Amending Section 75-6208, R.C.M. 1947, to Provide Additions and Changes in Various Benefits to Members of the Teachers' Retirement System; Amending Section 75-6212, R.C.M. 1947, to Allow for Service Credits for Employment while a Teacher is on Leave; Amending Section 75-6213, R.C.M. 1947, to Define Basis of Cost for Out-of-State Service Credit; Changing Credit for Out-of-State Teaching and Prior Military Service and Decreasing Membership Requirements of the Teachers' Retirement System; Adding a New Section to be Numbered 75-6219 Providing for a Tax Deferred Annuity Program Sponsored by the Teachers' Retirement System.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-6204, R.C.M. 1947, is amended to read as follows:

"75-6204. **Per diem and expenses.** The members of the retirement board shall serve without direct or indirect compensation except that each appointed member shall receive *twenty-five dollars (\$25)* per day and his necessary and actual expenses incurred for each day in attendance at the meetings of such board or in the execution of his duties as a member of the retirement board. All per diem and expenses paid under the provisions of this section shall be paid from the expense fund of the retirement system."

Section 2. Section 75-6206, R.C.M. 1947, is amended to read as follows:

"75-6206. **Financial administration of moneys.** The retirement board shall be the trustees of all moneys collected for the retirement system and as such trustees they shall provide for the financial administration of the moneys in the following manner:

(1) The moneys shall be invested and re-invested by the state board of *investments*.

(2) The retirement board annually shall establish the rate of regular interest.

(3) The retirement board annually shall divide among the several funds of the retirement system an amount equal to the average balance of such funds during the preceding fiscal year multiplied by the rate of regular interest. In accordance with the provisions of subsection (3) (e) of section 75-6207, the amount to be credited to each fund shall be allocated from the interest and other earnings on the moneys of the retirement system actually